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September 12, 2014

VIA ERF

Public Service Commission of Wisconsin

Attn: Ms. Sandra J. Paske, Commission Secretary

Post Office Box 7854

Madison, WI 53707-7854

Re: Docket No. 2535-CE-100
Intervenor Town of Forest's Objection to Two-Year Extension

Dear Ms. Paske:

The Town of Forest (the "Town"), a party in the above-referenced docket, objects to the request Highland Wind Farm, LLC ("Highland") submitted to the Public Service Commission of Wisconsin (the "Commission") for a two-year extension of the time to commence construction of the project approved in the same docket (the "Project").¹ The Town objects on three grounds.

First, Highland has failed to comply with the Commission's order on decommissioning costs for the Project. On October 25, 2013, the Commission ordered Highland and the Town to agree on decommissioning cost estimators for the Project "within 60 days."² By December 18, 2013, the Town notified the Commission that it had identified the decommissioning cost estimator it would recommend.³ On December 23, 2013, the Town agreed to Highland's proposal to begin tolling the Commission's mandated sixty-day period when "the Town receives the necessary information on the cost estimator that [Highland] chooses to recommend." Since then, Highland has given the Town absolutely no information or update on this matter.

By failing to even approach the Town with a decommissioning cost estimator recommendation, Highland has failed to show good cause for an extension. *See* Wis. Stat. §

¹ PSC Ref. # 215747.

² PSC Ref. # 192339, p. 50.

³ PSC Ref. # 194752, p. 1.

196.491(3c)(b). Highland's reliance on the pending appeal of the Commission's final decision in the docket does little to change that. Highland had a total of seventy-seven (77) days between the Commission's order and the filing of the Town's appeal⁴ to identify and propose decommissioning cost estimators. Ever since then, Highland has had a total of two hundred and forty-three (243) days to do the same. While Highland may have reason to delay construction until the final disposition of the Town's appeal, Highland had little reason to delay identifying decommissioning cost estimators in the meantime.

Second, before the Commission can grant an extension, it should hold a new hearing to consider factual and legal changes relevant to the docket. Since the Commission's order, the composition of the Town's residents has changed, warranting revision of the residents' health conditions and their effect on the application. The Town has also adopted a new land use plan, warranting revision of the analysis of the Project's interference with the Town's land use.

Third, a two-year extension is excessive, unnecessary, and prejudicial to the Town. A two-year extension would triple the length of Highland's original permit, and allow Highland to begin construction as late as five years from the date of its original application in the docket. It is highly likely that, by that point, even more changes to the composition of Town residents and the Town's land use will have taken place. Additionally, by that point, the Wind Siting Council may have recommended different noise limits and setback requirements for the new, massive industrial turbines Highland proposes to use – which it did not consider when it first developed the wind siting rules. It would be unfair to the Town and its residents to have a developer build a project on an ancient application, an outdated decision, and an obsolete set of rules.

For the foregoing reasons, the Town respectfully request that the Commission deny Highland's request for a two-year extension. The Town asks the Commission to require Highland to file a new application or an amendment to its existing application, and to grant a new hearing on the issue of an extension to address the changed or pending legal and factual issues outlined in this letter.

Sincerely,

REYNOLDS OLIVEIRA LLC

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line.

By: Marcel S. Oliveira, Esq.
Attorney for the Town of Forest

⁴ Dated January 10, 2014.